

# OFFICE OF LEGISLATIVE LEGAL SERVICES

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## SUMMARY OF MEETING

### COMMITTEE ON LEGAL SERVICES

**February 9, 2012**

The Committee on Legal Services met on Thursday, February 9, 2012, at 8:01 a.m. in HCR 0109. The following members were present:

Representative Gardner, Chair  
Representative Labuda  
Representative Levy  
Representative Murray  
Representative Waller  
Senator Morse, Vice-chair  
Senator Brophy  
Senator Carroll (present at 8:03 a.m.)

Representative Gardner called the meeting to order.

**8:03 a.m.** -- Dan Cartin, Director, Office of Legislative Legal Services, and Sharon Eubanks, Deputy Director, Office of Legislative Legal Services, together addressed agenda item 1 - Approval of OLLS Budget for FY 2012-13.

Mr. Cartin said on behalf of the 47 of us on your legal staff, I want to extend our appreciation to you for taking the time to consider our budget request for fiscal year 2012-13. I also want to extend our thanks to you for your ongoing support of our Office in our efforts. I also want to thank Matt Dawkins in our

Office for doing the paper work and heavy lifting in putting our budget together, as he does every year. Ms. Eubanks will do the actual presentation as she has done so capably over the last several years. I'm here to help answer any questions you may have about the budget as well as take any direction or requests that you might have of our Office going forward for the remainder of the session and the next fiscal year.

Ms. Eubanks said you all have a packet that includes a budget overview, a narrative on our budget request, the organizational chart of our Office, and the budget request in a spreadsheet format. What I'd like to do is briefly summarize our budget request. However, Mr. Cartin and I are prepared to provide more detailed information as you may want or need. Our budget request does conform with the common policies that have been adopted to date by the Joint Budget Committee. I understand that the JBC still has some proposed common policies under consideration and if additional common policies are adopted, our budget request would be subsequently amended as needed to incorporate those additional policies. For the 2012-13 fiscal year, the Office is requesting a grand total of \$5,433,976, which is a 3.07% increase from the amount appropriated for the current fiscal year. Our budget request is broken down into four major areas of expenditures: Personal services, operating expenses, Office travel, and the Commission on Uniform State Laws. For personal services in fiscal year 2012-13, the Office is requesting \$4,700,525 and a 53.0 FTE authorization. While there's no change in the number of FTEs requested from the current fiscal year, the amount requested does reflect a 3.69% increase from the amount budgeted for this purpose in the current fiscal year. The reason contributing most to this increase in funding for personal services is the restoration of the PERA employer contribution rate of 10.15% in fiscal year 2012-13. As you'll recall, for the past two fiscal years, the employer contribution rate was reduced to 7.65% as part of cost-savings measures for the state. Restoring the employer contribution rate to 10.15% will require the Office to pay almost an additional \$100,000 toward employees' retirement accounts.

Ms. Eubanks said the second area of expenditures is operating expenses. For these expenses, the Office is budgeting \$431,574, which is a 12.16% decrease from the amount budgeted for the current year. The primary reason for the decrease is a reduction in the amount budgeted for legal fees. For the past several fiscal years, the amount expended for legal fees has been substantially lower than the amount budgeted for this purpose, which is \$160,000. This year's request includes \$100,000 for legal fees and the remaining \$60,000 has been shifted to other needs within the Office.

Ms. Eubanks said the third area of expenditure in our budget is staff travel. The amount requested for the 2012-13 fiscal year is \$5,500, which is the same amount that has been budgeted for the current fiscal year.

Ms. Eubanks said the fourth area of Office expenditure is for the Commission on Uniform State Laws. The commission has requested that the Office ask for \$72,200 for fiscal year 2012-13, which is an increase of a little over \$17,000. This increase is requested for two reasons. First, the increase would allow us to pay the full amount of annual dues, which is estimated to be \$47,200 for this year. For the past three years, Colorado has not paid the full amount of annual fees to the commission. The second reason for the increase is to cover the registration fees and associated travel costs of two additional life members of the commission. The amount requested for this purpose is \$8,790. The subtotal of our request for these four areas of expenditures is \$5,209,799. Once you add in the amounts for the statutorily required PERA AED and PERA SAED payments, we reach the grand total of our budget request of \$5,433,976.

Senator Carroll said I see that the FTE stayed at 53, but between 2010 and 2011 we went down three FTE. Are those real people or is that a numbers adjustment? Mr. Cartin said they're not actual employees. We were authorized 56.1 FTE going back many years, but we only had funding for 50.5 for several years. Last year as part of the budget process, we were asked if we would reduce our authorized FTE by 3 FTE and we did that. We went from 56 authorized to 53 authorized. We still maintain funding for 50.5 and actually have 47 people working in the Office.

Representative Gardner said Ms. Eubanks spoke about the JBC having an additional common policy. Could you explain, for those of us not on the JBC, what the discussions have been? I know that decision hasn't been made but if there is such a policy that would require a cut, can you tell us where that would come? Ms. Eubanks said it's my understanding that primarily what the JBC is still discussing is whether or not there would be an across-the-board percentage reduction in personal services. For the past few years, because of the budget situation, the JBC has adopted a common policy for all agencies to take a percentage reduction in personal services funding. I believe that's primarily what they have left in terms of their discussions.

Representative Levy said the JBC hasn't yet given staff direction on whether to reflect a reduction on the personal services line item for all the departments. That's still open right now. The thought was that if we did reduce it, it would come from vacancy savings. The other thing that hasn't been decided is how to deal with the increase in health insurance premiums. The governor's budget

request reflected a line on employer contributions to health insurance which would increase the percentage paid by employees. We haven't figured that out yet.

Mr. Cartin said last year there was a 1.5% across-the-board cut that we were able to absorb in vacancy savings. If there was a similar cut, I think we still are in a posture where we could absorb that in our personal services vacancy line or spread it out across the budget, if there was direction to do so.

**8:14 a.m.**

Senator Morse moved that the Committee approve the budget as submitted by staff. Representative Labuda seconded the motion. Representative Levy asked on the Commission on Uniform State Laws increase, where does that put us in terms of full funding of our dues? How close are we now? Ms. Eubanks said with the budget approved as requested, it would fully fund the dues for this year. The motion passed on an 8-0 vote, with Senator Brophy, Senator Carroll, Senator Morse, Representative Gardner, Representative Labuda, Representative Levy, Representative Murray, and Representative Waller voting yes.

**8:15 a.m.** -- Representative Gardner addressed agenda item 2 - Action on HB 12-1086 by Representative Gardner; also Senator Morse - Rule Review Bill.

Representative Gardner said this is the rule review bill. I'm going to take a couple minutes to say something about this. The federal rule review process is different than ours in Colorado. It is different in the sense that the legislative branch vests power in the executive branch for rules. There is a fairly comprehensive publication of rules in the federal register, public comment, and so forth, but in general, there is not, unless there is a legislative exception, an opportunity for the legislative branch to say that that wasn't the grant of power we made to you. I've been told that this process was largely the work of Senator Jeff Wells. It's genius on the part of Senator Wells because it gives us an opportunity as legislators and as the General Assembly to review this process. Though the bill is often a sleeper, it represents hours and hours of work by staff, which I want staff to know we appreciate. It represents some very tough, close legislative battles about what it means to vest power in the executive branch. It's very important, and with that I would ask for your support. Ms. Haskins has prepared an amendment to deal with the secretary of state's regulation, which this Committee dealt with, which was then dealt with legislatively.

**8:18 a.m.** -- Debbie Haskins, Assistant Director, Office of Legislative Legal Services, testified before the Committee. She said the secretary of state's rule that is in the bill right now has been replaced by the secretary of state and then legislation was enacted to change the statute, which makes the original rule moot. The new rule needs to be repealed or removed by the secretary of state because the General Assembly has changed the law on the reporting requirements. The bill was Senate Bill 12-014 and it amended the statute to change the reporting date. What's in the rule review bill is really kind of moot and the Committee's practice in the past, if the statute has changed that underlies the rule, has been to take the listing of the rule out of the bill. The Committee hasn't always done that, but it's an option for the Committee, and that has typically been done if a statutory change has been made. The amendment would remove the listing of the rule in the bill.

Senator Carroll asked when was Senate Bill 14 signed and what is the effective date? Ms. Haskins said the governor signed the bill on January 30, so it's the law now.

**8:21 a.m.**

Representative Gardner moved L.001. Representative Labuda seconded the motion. No objections were raised to that motion and it passed unanimously.

**8:21 a.m.**

Representative Gardner moved House Bill 12-1086 to the committee of the whole with a favorable recommendation. Representative Labuda seconded the motion. The motion passed on an 8-0 vote, with Senator Brophy, Senator Carroll, Senator Morse, Representative Gardner, Representative Labuda, Representative Levy, Representative Murray, and Representative Waller voting yes.

**8:23 a.m.**

The Committee adjourned.